IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

WEDNESDAY, THE 6TH JUNE 2007 / 16TH JYAISHTA 1929

LA.App..No. 491 of 2003 & CROSS OBJECTION NO.42/04

LAR.274/2000 of PRL.SUB COURT, KOZHIKODE
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APPELLANT: RESPONDENT

STATE OF KERALA.

BY
GOVERNMENT PLEADER SMT.K.R.DEEPA.

RESPONDENTS: CLAIMANTS

T.M.CHANDRIKA W/O. T.H.SIVANANDAN,
MELEPANOLI PARAMBA, 27/889 A,
KUTHIRAVATTOM.

BY ADV. SRI.M.GOPIKRISHNAN NAMBIAR
SMT.T.RESMI DAMODARAN

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 06/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH & T.R.RAMACHANDRAN NAIR, JJ.

L.A.A.No. 491 OF 2003 &
Cross Objection 42/04

Dated 6th June, 2007.

J U D G M E N T

Kurian Joseph, J.

This appeal is directed against the judgment and decree in L.A.R.274/2000 on the file of the Subordinate Judges Court, Kozhikode. The acquisition is for the purpose of Calicut bye pass. The notification is of the year 1998. The Land Acquisition Officer fixed the land value at Rs.14,634/- per cent. The Reference Court enhanced the value to Rs.30,000/- per cent. There is no dispute that the land involved in the acquisition is garden land. In several cases, we have held that the land value for the wet land can be fixed at Rs.60,000/- and that is the value fixed by the Reference Court in L.A.R.240/2000. The appeal, L.A.A.128/02 filed by the State was dismissed. Be that as it may, it is seen that in the instant case, though the reference is made to Ext.A2 document, the court has not accepted the value as such. Ext.A2 is a property having an extent of 30.68 cents and the value is Rs.90,000/- per cent. The document is of the year 1996. However, the Reference Court on evidence found that the acquired land is on the side of Kumaran Nair Road which is lying on the south of the Medical College road. The court hence fixed an average value between the value allotted by the Land Acquisition Officer and the

value of Ext.A2, at Rs.30,000/-. The Advocate Commissioner also has reported that the land is situated in an important locality and would fetch the value as that of Ext.A2. In view of the stand already taken by this Court regarding the value that could be given to wet land to the tune of Rs.60,000/-, we do not find any merit in the appeal filed by the State against the fixation of Rs.30,000/- per cent. Hence the appeal is dismissed.

In the Cross Objection, the value claimed is only Rs.40,000/- per cent. Before Reference Court, the claimant contended that the property would fetch Rs.2 lakhs per cent. Land value at the rate of Rs.60,000/- per cent having become final, we hold that the claimant is entitled to have the market value fixed at Rs.40,000/- per cent along with statutory benefits. In the result, the Cross Objection is allowed. The Cross Objector will be entitled to the market value fixed at Rs.40,000/- per cent with statutory benefits.

KURIAN JOSEPH, JUDGE.

T.R.RAMACHANDRAN NAIR, JUDGE.

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KURIAN JOSEPH &

T.R.RAMACHANDRAN NAIR, JJ

L.A.A. NO.491 OF 2003 &
Cross Objection 42/04

J U D G M E N T

Dated 6th June, 2007.